

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #11	CCRB Case #: 202202133	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 03/07/2022 7:56 PM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 30	18 Mo. SOL 9/7/2023	EO SOL 9/7/2023	
Date/Time CV Reported Thu, 03/24/2022 8:56 PM	CV Reported At: Mayor's Office	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 04/04/2022 3:18 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Jennifer Ramirez	24851	970115	030 PCT
2. PO Matae Lee	10092	968566	030 PCT
3. PO Donte Perez	22754	970073	030 PCT
4. PO Avery Jennings	28198	944092	030 PCT
5. PO Joseph Sheridan	21714	968802	030 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Leonel Checo	04313	936338	030 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Joseph Sheridan	Abuse: Police Officer Joseph Sheridan entered § 87(2)(b) in Manhattan.	
B. PO Matae Lee	Abuse: Police Officer Matae Lee entered § 87(2)(b) in Manhattan.	
C. PO Jennifer Ramirez	Abuse: Police Officer Jennifer Ramirez entered § 87(2)(b) in Manhattan.	
D. PO Donte Perez	Abuse: Police Officer Donte Perez entered § 87(2)(b) in Manhattan.	
E. PO Avery Jennings	Abuse: Police Officer Avery Jennings searched § 87(2)(b) in Manhattan.	

Case Summary

On March 24, 2022, § 87(2)(b) filed this complaint with the New York City Mayor's Office. It was received at the CCRB on April 4, 2022.

On March 7, 2022, at approximately 7:56 p.m., § 87(2)(b) was inside his bedroom of his apartment located at § 87(2)(b) in Manhattan when he heard a locksmith cutting the lock to his apartment. PO Joseph Sheridan, PO Matae Lee, PO Jennifer Ramirez, and PO Donte Perez of the 30th Precinct opened § 87(2)(b) bedroom door and entered (**Allegations A, B, C, and D: Abuse of Authority**, § 87(2)(g)). The officers accused § 87(2)(b) of locking his roommate, § 87(2)(b) out of the apartment. § 87(2)(b) asked to speak with a supervisor and Sgt. Leonel Checo and PO Avery Jennings of the 30th Precinct came to the location. Sgt. Checo placed § 87(2)(b) under arrest for an illegal eviction. PO Jennings entered § 87(2)(b) closet in his bedroom and took out a jacket (**Allegation E: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was then transported to the 30th Precinct stationhouse.

The investigation obtained seven body-worn camera videos (**BR 01, BR 02, BR 03, BR 04, BR 05, BR 06, and BR 07**; *videos*, **BR 08, BR 09, BR 10, BR 11, BR 12, BR 13, and BR 14**; *summaries*) and one cellphone video which was provided by § 87(2)(b) (**BR 15**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Joseph Sheridan entered § 87(2)(b) in Manhattan.

Allegation (B) Abuse of Authority: Police Officer Matae Lee entered § 87(2)(b) in Manhattan.

Allegation (C) Abuse of Authority: Police Officer Jennifer Ramirez entered § 87(2)(b) in Manhattan.

Allegation (D) Abuse of Authority: Police Officer Donte Perez entered § 87(2)(b) in Manhattan.

§ 87(2)(b) (**BR 16**) was asleep in his bedroom when he heard someone cutting the lock on the door to his apartment. § 87(2)(b) observed a male who appeared to be a locksmith and assumed his roommate, § 87(2)(b) had forgotten her key and then made a false report that he had locked her out as she had done in the past. § 87(2)(b) had asked § 87(2)(b) to move out, but she still resided at the apartment at the time of this incident. The lease was in § 87(2)(b) name, and he had three roommates that subleased from him.

§ 87(2)(b) went back to bed then he heard more noise. PO Sheridan, PO Lee, PO Ramirez, and PO Perez entered § 87(2)(b) bedroom without knocking or announcing themselves. The officers opened the door and yelled, § 87(2)(b) knowing § 87(2)(b) name already. The officers stood over § 87(2)(b) "menacingly" for over an hour. § 87(2)(b) did not elaborate on how the officers were menacing. The officers accused § 87(2)(b) of locking § 87(2)(b) out of the apartment. § 87(2)(b) had been allowed in the apartment by the police and was walking around the apartment. § 87(2)(b) stated during his CCRB interview he never changed the lock.

§ 87(2)(b) asked to speak to a captain, and Sgt. Checo and PO Jennings arrived at the location. Sgt. Checo handcuffed § 87(2)(b). § 87(2)(b) was held overnight at the 30th Precinct stationhouse and an order of protection was issued against § 87(2)(b) in court.

PO Sheridan (**BR 17**) and PO Ramirez responded to a radio assignment for a crime in progress. At the location, PO Sheridan spoke to § 87(2)(b) who had an active criminal complaint against her landlord, § 87(2)(b). § 87(2)(b) had gone home that morning and was not able to get into the apartment. Officers from Tour 1 made an illegal eviction criminal complaint and told § 87(2)(b) to come back during the day with a locksmith. PO Sheridan had no contact with the officers who had prepared the complaint report earlier that day and did not know who they were. The active criminal complaint gave probable cause to arrest § 87(2)(b).

§ 87(2)(b) explained that when she came back with the locksmith, and while the

locksmith was trying to change the locks, § 87(2)(b) came outside and yelled at them not to change the locks. When he went back inside, § 87(2)(b) called the police. The locksmith continued working while § 87(2)(b) waited downstairs. The locksmith opened the door, and the officers entered the apartment. § 87(2)(b) had given the officers permission to help her gain access to the apartment.

The apartment opened into a hallway. PO Sheridan and the officers went down the hallway and knocked on § 87(2)(b) door and the other doors to see if anyone else was home. PO Sheridan knocked on § 87(2)(b) door again and the door opened. § 87(2)(b) said, “How can I help you?” and PO Sheridan and the other officers walked into § 87(2)(b) bedroom and started talking to him.

PO Sheridan interpreted “How can I help you?” as § 87(2)(b) willingness to talk to him. § 87(2)(b) never stated that the officers could enter, and PO Sheridan never asked for consent to enter. § 87(2)(b) never stated that the officers could not enter, and PO Sheridan did not recall whether § 87(2)(b) asked them to leave his bedroom. § 87(2)(b) wanted to know why he was under arrest and the officers told him that he was under arrest for illegal eviction and instructed him to stand up, which he refused and stayed in bed. The officers told § 87(2)(b) that they could have a supervisor come and speak to him then waited for the supervisor to arrive.

Sgt. Checo and PO Jennings arrived, and PO Sheridan explained what was going on to Sgt. Checo. Sgt. Checo started his own investigation into the locks being changed. The officers spoke to two additional roommates who both stated that they had received a new set of keys for the apartment and § 87(2)(b) had changed the locks. After his own investigation, Sgt. Checo decided that § 87(2)(b) could be arrested for the active criminal complaint.

PO Lee (**BR 18**) and PO Perez decided to backup PO Sheridan and PO Ramirez on an assignment regarding an illegal eviction. Upon arrival, a locksmith and § 87(2)(b) were outside of the apartment. § 87(2)(b) explained that she already made a criminal complaint regarding the illegal lockout. PO Lee believed § 87(2)(b) made the complaint a tour or two prior, but he never looked at the complaint report himself.

When the locksmith opened the door, PO Lee and the other officers went inside the apartment and § 87(2)(b) pointed out § 87(2)(b) room. An officer knocked on the door and § 87(2)(b) asked, “Who is this?” An officer asked § 87(2)(b) what happened, and all the officers went inside § 87(2)(b) bedroom. PO Lee did not ask § 87(2)(b) for permission to enter and § 87(2)(b) never voluntarily asked officers to enter. PO Lee entered the bedroom based on the illegal eviction and based on the previous complaint report.

§ 87(2)(b) asked the officers to leave and stated that it was his lock, so he had the right to lock his door. Sgt. Checo and PO Jennings arrived on scene. Sgt. Checo asked what happened and assessed the situation. Toward the end of the incident, other tenants arrived on scene and PO Lee went to the hallway outside of the apartment. § 87(2)(b) was handcuffed inside the apartment, but PO Lee was not present for the handcuffing. At the conclusion of the incident, § 87(2)(b) was arrested because he refused to provide § 87(2)(b) with keys but had given new keys to the other tenants. Sgt. Checo made the decision to have § 87(2)(b) arrested.

PO Ramirez (**BR 19**) learned that § 87(2)(b) had called police the day prior because she was locked out of her apartment and a criminal complaint report was made, and the officers who responded told her that if she still could not get in, she could call the police and a locksmith. § 87(2)(b) called the locksmith and while the locksmith was working, § 87(2)(b) came outside and screamed at and harassed the locksmith and § 87(2)(b) then called the police and that was when PO Ramirez responded.

PO Ramirez briefly reviewed the criminal complaint report on her department phone while she was at the location. Officers told § 87(2)(b) to wait downstairs. The locksmith opened the door and PO Ramirez, and the officers entered the apartment. Officers knocked on all the doors because they were advised that other people lived in the apartment. Officers knocked on § 87(2)(b) door and it opened. § 87(2)(b) was on his bed. PO Ramirez did not remember § 87(2)(b)

§ 87(2)(b) saying anything about the officers coming inside his bedroom. The officers did not ask for permission to come inside the bedroom, and PO Ramirez did not remember § 87(2)(b) explicitly consenting to the officer coming inside the bedroom.

Officers entered the bedroom because there was already a criminal complaint report regarding a crime § 87(2)(b) had committed, and § 87(2)(b) had stated that § 87(2)(b) was there and had been aggressive. The officers informed § 87(2)(b) that changing the locks was a crime and he needed to give § 87(2)(b) keys. § 87(2)(b) was in his bed recording and refusing to get up. § 87(2)(b) stated that he did not do anything, was not happy, and asked for a supervisor.

Sgt. Checo arrived and asked § 87(2)(b) whether he changed the locks and § 87(2)(b) did not want to talk about it and stated he did not do anything. Two additional tenants came to the location and PO Ramirez and some of the other officers spoke to them outside of the apartment. The tenants admitted that § 87(2)(b) had changed the locks and given them new sets of keys. PO Ramirez was not inside the apartment when Sgt. Checo decided to arrest § 87(2)(b).

PO Perez (**BR 20**) and PO Lee heard an assignment for an illegal eviction go over the radio and decided to backup PO Sheridan and PO Rivera. Upon arrival, there was a locksmith trying to open § 87(2)(b). PO Sheridan informed PO Perez and PO Lee that § 87(2)(b) had a criminal report for an illegal eviction that the officers on the midnight tour had prepared that morning. The criminal complaint listed § 87(2)(b) as the perpetrator and § 87(2)(b) as the victim. § 87(2)(b) had legal rights to the apartment since she had been there more than 30 days.

PO Perez and the officers waited for the locksmith to open the door. After getting into the apartment, PO Sheridan walked a little bit and knocked on § 87(2)(b) bedroom door. PO Perez did not remember if the door opened. PO Sheridan, PO Lopez, PO Lee, and PO Ramirez entered the bedroom. The officers did not receive permission, rather, § 87(2)(b) said, “How can I help you guys?” § 87(2)(b) never stated the officers could not come into the bedroom. PO Lopez did not recall whether § 87(2)(b) ever asked them to leave his bedroom.

The officers entered the bedroom to talk to § 87(2)(b) because they had been knocking multiple times and announcing themselves at the apartment door and to see who changed the locks, why the locks had been changed, why § 87(2)(b) did not get a key, and to talk about the criminal complaint report. § 87(2)(b) tried to argue with the officers and threatened to call Al Sharpton. § 87(2)(b) stated that he had changed the locks because he did not want § 87(2)(b) in the apartment because she was a drug addict.

PO Sheridan called Sgt. Checo to the location. Sgt. Checo asked § 87(2)(b) if he was willing to allow § 87(2)(b) back into the apartment and he did not answer the question. Due to the criminal complaint report, § 87(2)(b) was able to be arrested. Sgt. Checo determined the arrest. § 87(2)(b) cooperated with being handcuffed.

§ 87(2)(b) was arrested (**BR 21**) regarding an active complaint report (**BR 22**) for an illegal eviction that was generated at 4:00 a.m. on March 7, 2022. According to the arrest report, two witnesses admitted that § 87(2)(b) had changed the locks and given them new keys.

PO Sheridan’s body-worn camera footage (**BR 04; video, BR 13; summary**) shows at 6:56 minutes, PO Sheridan walking into § 87(2)(b) apartment and at 7:26 minutes knocking on the door to § 87(2)(b) bedroom. The door opens on its own and PO Sheridan says, § 87(2)(b) “what’s going on today?” § 87(2)(b) says, “How can I help you,” as PO Sheridan enters the bedroom. § 87(2)(b) says, “I didn’t invite you in, please leave.” PO Sheridan asks what is going on with § 87(2)(b) and he says he does know. At 8:24 minutes, PO Sheridan tells § 87(2)(b) he is under arrest for an illegal eviction. § 87(2)(b) is arrested at 54:55 minutes in the hallway of his apartment, after Sgt. Checo arrives and is informed by two additional tenants that § 87(2)(b) gave them new keys earlier that week.

PO Lee’s, PO Ramirez’, and PO Perez’ body-worn camera footage (**BR 01, BR 02, and BR 03; videos, BR 08, BR 10, and BR 11; summaries**) shows that they all entered § 87(2)(b) bedroom immediately after PO Sheridan walks inside.

In Payton v. New York, 445 U.S. 573 (1980) (**BR 23**), the court found that absent exigent

circumstances, officers are not permitted to enter a home to make an arrest without a warrant even when they have probable cause.

Legal Bureau Bulletin Vol 49, No. 3, dated August 2019 (**BR 29**) regarding illegal evictions states that Police Officers are reminded that, should an arrest be necessary, force may not be used to enter a premises to arrest an owner or owner's agent without an arrest warrant unless there are exigent circumstances. It is Department policy not to physically assist an occupant in gaining entry to the dwelling unit. Accordingly, police officers should not attempt to break into the dwelling unit to allow a tenant to re-enter. Of course, in an emergency, such as when medicine vital to life is required, police officers would assist in gaining entry for the purpose of securing such medicine.

Although § 87(2)(b) gave the officers access to the apartment, § 87(2)(g) PO Sheridan, PO Lee, PO Ramirez, and PO Perez did not have an arrest warrant, and the body-worn camera footage showed that the officers entered § 87(2)(b) private bedroom simultaneously without consent § 87(2)(g) § 87(2)(b) § 87(2)(b) § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Avery Jennings searched § 87(2)(b) in Manhattan.

§ 87(2)(b) stated (**BR 16**) that the officers searched his closet and took his wallet out of his jacket pocket which was on the chair. The officers never asked for consent to search.

PO Jennings stated (**BR 24**) that Sgt. Checo made the decision to have § 87(2)(b) arrested. PO Jennings initially stated that he never entered § 87(2)(b) bedroom and did not know if § 87(2)(b) asked to bring any belongings with him when he got arrested.

During his CCRB interview, PO Jennings' body-worn camera footage (**BR 06; video, BR 12; summary**) was played from 37:02 minutes to 37:57 minutes. The video refreshed PO Jennings' memory regarding entering § 87(2)(b) bedroom and opening the closet. PO Jennings and PO Perez went into the bedroom to grab § 87(2)(b) shoes. It was cold outside so PO Jennings grabbed a jacket for § 87(2)(b) § 87(2)(b) never asked for a jacket. PO Jennings did not see the jacket which was on the chair. PO Jennings explained that he grabbed the jacket because he is "not a savage" and wanted to make sure § 87(2)(b) was okay.

PO Jennings' body-worn camera footage (**BR 06; video, BR 12; summary**) shows at 37:07 minutes, Sgt. Checo telling § 87(2)(b) that he has to come with them. Sgt. Checo and PO Sheridan handcuff § 87(2)(b) § 87(2)(b) states, "I need my shoes." PO Jennings follows PO Perez into the bedroom. PO Perez picks up a pair of shoes off the floor. PO Jennings says, "A sweatshirt or something." There is a jacket on the back of a chair in plain view in the center of the room. PO Jennings opens the closet door and takes out a different jacket. PO Jennings brings the jacket to the hallway and § 87(2)(b) says, "And now you're going through my belongings." Sgt. Checo says, "You say you need clothing, no?" § 87(2)(b) says, "How am I supposed to put a jacket on?" PO Jennings says, "It's nice outside, just for later, just in case." At 39:30 minutes, § 87(2)(b) is brought into his bedroom, and he explains that his keys are in the jacket that is on the back of the chair. At 40:00 minutes, § 87(2)(b) states he wants the jacket which is on the chair, and PO Jennings puts the jacket he took out of the closet, back into the closet.

In People v. Cosme, 48 N.Y.2d 286 (1979) (**BR 25**), the court found that officers may conduct a warrantless search of a premises when they have received voluntary consent by a party who has authority over the premises searched.

Since § 87(2)(b) only requested shoes which were in plain view on the floor and never asked for any additional clothing, and PO Jennings did not ask § 87(2)(b) whether he wanted any clothing, did not seek consent from § 87(2)(b) to enter his closet, § 87(2)(g) § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 26).
- PO Sheridan has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.
- PO Lee has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.
- PO Ramirez has been a member of service for two years and named a subject in one additional CCRB complaint with one allegation which is pending investigation.
 - § 87(2)(g)
- PO Perez has been a member of service for two years and this is the first CCRB complaint to which he has been named a subject.
- PO Jennings has been a member of service for 15 years and named a subject in five additional CCRB complaints and seven allegations, one of which was substantiated.
 - 200903936 involved one substantiated allegation of a refusal to provide name/ shield number. The Board recommended Command Discipline and the NYPD imposed Command Discipline B.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On January 3, 2023, a FOIL request was submitted to the New York City Office of the Comptroller to inform of any Notice of Claim, the results of which will be added to the case file upon receipt (BR 27).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 11

Investigator:	<u>Kelly Lyon</u>	<u>Inv. Kelly Lyon</u>	<u>04/27/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Edwin Pena</u>	<u>IM Edwin Pena</u>	<u>04/27/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date